

**IN THE HIGH COURT OF KERALA AT
ERNAKULAM**

PRESENT:

**THE HONOURABLE MR.JUSTICE
P.R.RAMACHANDRA MENON**

**FRIDAY, THE 12TH DAY OF APRIL
2013/22ND CHAITHRA 1935**

WP(C).No. 27844 of 2012 ()

PETITIONER :

K.NATARAJAN

**STATE INFORMATION COMMISSIONER
(UNDER SUSPENSION)**

KERALA STATE INFORMATION COMMISSION

**RESIDING AT 'GEETHAS', VRA-175,
MANNAMOOLA**

PEROORKKADA, THIRUVANANTHAPURAM.

BY SENIOR ADVOCATE SRI . K.R.B. KAIMAL

BY ADV. SRI.THIRUMALA P.K. MANI

SRI.B.UNNIKRISHNA KAIMAL

RESPONDENT :

STATE OF KERALA

**REPRESENTED BY THE CHIEF SECRETARY TO
GOVERNMENT OF KERALA**

**SECRETARIAT, THIRUVANANTHAPURAM-
695001.**

**BY ADVOCATE GENERAL SRI . K.P.
DANDAPANI**

**BY GOVT. PLEADER SRI . ROSHAN D.
ALEXANDER**

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14/02/2013,

THE COURT ON 12-04-2013 DELIVERED THE FOLLOWING:

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE NOTIFICATION GO (MS) NO.54/2011/GAD DATED 21.2.2011, PUBLISHED IN KERALA GAZETTE EXTRAORDINARY DATED 21.2.2011.

EXHIBIT P2: TRUE COPY OF THE REPRESENTATION DATED 8.11.2012 SUBMITTED BY

THE PETITIONER TO THE GOVERNOR OF KERALA.

EXHIBIT P3: TRUE COPY OF THE ORDER NO.GS4-1847/12 DATED 9.11.2012 ISSUED BY

THE GOVERNOR OF KERALA.

EXHIBIT P4: COPY OF THE LETTER NO. GS4-1847/12 DATED 9-11-2012 FROM THE SECRETARY TO THE GOVERNOR OF KERALA ADDRESSED TO THE RESIDENT COMMISSIONER, KERALA HOUSE, NEW DELHI.

EXHIBIT P5: COPY OF THE LETTER NO. GS4-1847/12 DATED 9-11-2012 FROM THE SECRETARY TO THE GOVERNOR OF KERALA, ADDRESSED TO THE SECRETARY GENERAL OF THE SUPREME COURT.

EXHIBIT P6: COPY OF THE REPORT NO. GS4-1847/12 DATED 9-11-2012 FROM THE

GOVERNOR OF KERALA TO THE HON'BLE SUPREME COURT.

EXHIBIT P7: COPY OF THE LETTER NO. 968/RC.LAW/1/2012 DATED 20TH NOV, 2012 OF

THE RESIDENT COMMISSIONER, GOVT. OF KERALA, NEW DELHI

ADDRESSED TO THE SECRETARY TO GOVERNOR OF KERALA.

EXHIBIT P8: COPY OF THE EXT.P-6 ACKNOWLEDGED BY THE REGISTRY OF THE SUPREME COURT ENCLOSED WITH EXT.P-7.

EXHIBIT P9: COPY OF THE LETTER D NO. 9321/2012/SC/SEC.111-A DATED 20-11-2012

OF THE REGISTRAR OF THE HON'BLE SUPREME COURT ADDRESSED TO THE SECRETARY TO GOVERNOR OF KERALA.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

"CR"

P.R. RAMACHANDRA MENON, J.

.....

W.P.(C). No. 27844 of 2012

.....

Dated this the 12th day of April, 2013

JUDGMENT

How the power of the Governor under Section 17(2) of the Right to Information Act ('RTI Act' in short) is to be exercised, for suspending the Chief Information Commissioner or the State Information Commissioner, pending inquiry by the Supreme Court on a Reference and what are the essential ingredients to be satisfied for the same, form the subject matter of consideration in this writ petition.

2. The petitioner herein joined the Kerala State Police

Service in the year 1985 and got elevated to the Indian Police

Service (Kerala Cadre) in 1995. While working as Dy. Inspector

General of Police holding the post of Vigilance Officer in the

Department of Co-operation, he voluntarily retired from service

on 09.02.2011 and was appointed by the Governor of the State

as State Information Commissioner vide Ext.P1 order dated

21.02.2011. The petitioner assumed charge as the State

Information Commissioner on 23.04.2011 and was continuing as

above.

3. While so, there were allegations that the petitioner was frequently interacting with one Mr. Kunjan, Dy. Superintendent of Police, who was investigating the vigilance case registered against Mr. V.S. Achuthanandan, Leader of the Opposition, Kerala Legislative Assembly and the former Chief Minister of Kerala, in the matter of assignment of some Government Land to a relative of the latter. It was alleged that the aforesaid Investigating Officer was contacted by the petitioner on many a time, and the former was allegedly instructed to absolve Mr. V.S. Achuthanandan from the insinuation/accusation. It is seen from the pleadings and proceedings, that the Additional Director

General of Police (Vigilance and Anti Corruption Bureau) was required to check the correctness of the information and to submit a 'Quick Verification Report'. Verification was conducted and based on the report, the Government put up the matter before the Governor to take appropriate action against the petitioner.

4. The report and other relevant proceedings were considered by the Governor, who found that there was prima

faice a case against the petitioner and that if the same was

proved, the petitioner was liable to be removed from the office.

It was in the said circumstance, that the matter was decided to

be referred to the Hon'ble Supreme Court as contemplated under

Section 17(1) of the Right to Information Act. In view of the said

decision taken on 09.11.2012, the petitioner was placed under

suspension vide Ext.P3 order dated the same day, and it was

served on the petitioner on 12.11.2012 by special messenger

deputed from the Kerala Raj Bhavan. Ext.P3 order of suspension

is under challenge in this writ petition on many a ground,

including maintainability. It is stated that Ext.P2 representation

preferred by the petitioner on the previous day was not

considered by the Governor and no opportunity of hearing was given to him before passing Ext.P3.

5. The respondent has filed a counter affidavit referring to the facts and figures. Besides rebutting the averments and allegations in the writ petition, it has been asserted in the counter affidavit that, the idea and understanding of the petitioner as to the scope of the power under Section 17(2) of the RTI Act and the manner of exercising the same by the Governor is wrong and

misconceived. It is stated that, the discretion to refer the matter to the Supreme Court for inquiry is exclusively vested with the Governor and it is made with reference to the information/materials placed before him. It is stated therein that the said power is vested with the Governor to ensure the dignity of the office of the Information Commissioner, appointed by the Governor. Ext.P3 order of suspension was stated as passed by the Governor based on such materials, particularly the 'Quick Verification Report' of the Additional Director General of Police (Vigilance and Anti Corruption Bureau), who was deputed to check the correctness of the information.

6. As a matter of fact, Mr. V.S. Achuthanandan, Leader of

the Opposition of the State Legislative Assembly, is an accused in

Vigilance case No. VC 1/12/KSD, which is being investigated by

the concerned Deputy Superintendent of Police (Mr.V.G. Kunjan).

The 'Quick Verification Report' submitted by the Additional

Director General of Police reveals that the petitioner, by virtue of

his authority and power, tried to influence the investigating

officer in the corruption case and hence has failed to maintain

absolute integrity and that his conduct was quite unbecoming of

the State Information Commissioner. The conversation between the petitioner with the concerned Deputy Superintendent of Police/Investigating Officer over phone is stated as recorded in a CD by the Officer himself and it was submitted before the Additional Director General of Police, who prepared the 'Quick Verification Report.' The allegations of misbehaviour as disclosed from the 'Quick Verification Report' are stated to be of grave nature, enough for justifying removal from service and it was in the said circumstance, that the Government thought it fit and proper to place the same for consideration before the Governor for further steps under Section 17 of the Act.

7. Heard Mr. K.R.B Kaimal, learned Senior Counsel

appearing for the petitioner as well as Mr. K.P. Dandapani,

learned Advocate General assisted by Mr. Roshan D. Alexandar,

learned Government Pleader appearing for the respondent, at

length.

8. The main contentions raised by the petitioner against

Ext.P3 order of suspension are in the following terms:

a) - that the appointment of the State Chief

Information Commissioner and the State

Information Commissioner is governed by

Section 15(3) of the Right to Information Act,

to be made by the Governor, on the

recommendation of a Committee consisting of

the Chief Minister, Leader of Opposition in the

Legislative Assembly and a Cabinet Minister

nominated by the Chief Minister. As such, the

appointment is not on the basis of advice

given by the council of Ministers, but on the

recommendation of the Committee constituted

under Section 15(3) of the Act and hence the

respondent/Government has absolutely no role

in the removal/suspension of the petitioner.

b) - that 'commencement of inquiry' by the

Hon'ble Supreme Court on a reference made

by the Governor, is a condition precedent for

placing the Information Commissioner under

suspension and that it is for the Hon'ble

Supreme Court to consider the report

forwarded by the Governor and decide whether

there is a prima facie case for ordering an inquiry.

c) - that Ext.P3 order has been passed by the

Governor entirely on the recommendation of

the respondent based on the inquiry report of

the Additional Director General of Police

(Vigilance and Investigation). The 'RTI Act'

does not confer any power on the

Government or other Officers to conduct any

inquiry against a State Information

Commissioner and hence the inquiry itself is

unauthorised and illegal.

d) - that the power of removal/suspension of

State Information Commissioner conferred on

the Governor under Section 17 of the Right to

Information Act does not come within the

ambit of the executive power of the State

under Article 154 of the Constitution of India.

e) - that the inquiry leading to the Quick

Verification Report by the Additional Director

General of Police was conducted behind the back of the petitioner and Ext.P3 order was passed by the Governor without even considering Ext.P2 representation preferred by the petitioner and hence is in violation of the principles of natural justice.

f) - that the suspension casts a stigma affecting the reputation of the petitioner and it has been passed quite in a mechanical manner, merely on the recommendation of the Government.

As mentioned hereinbefore, these contentions have been sought

to be rebutted by the respondent in the counter affidavit and both the sides addressed the Court accordingly.

9. There is no factual dispute as to the sequence of events.

The crucial question to be considered is, whether Ext.P3 order of suspension could have been passed by the Governor, immediately upon taking a decision to have the matter referred to the Hon'ble Supreme Court for inquiry under Section 17(1), or, whether it could be effected only 'during the inquiry', i.e., after

commencement of the inquiry by the Hon'ble Supreme Court.

10. Seeking to canvas such a proposition, the petitioner has filed some additional documents as well, along with I.A.No.16920/2012. It is contended that, the reference and the relevant proceedings dated 09.11.2012 were forwarded to the Resident Commissioner, Kerala House, New Delhi, by the Secretary to the Governor of Kerala to be filed before the Hon'ble Supreme Court, vide Exts.P4 to P6 and that they were filed before the Apex Court only on '19.11.2012'. Ext.P8 is a copy of the acknowledgment on Ext.P5, given by the Registry of the Hon'ble Supreme Court, as to the receipt of the proceedings on 19.11.2012. The Registry of the Hon'ble Supreme Court as per

Ext.P9 proceedings dated 20.11.2012 informed the Secretary to

the Governor, State of Kerala, that the proceedings were

defective in some respects, which was sought to be

clarified/rectified as specified therein.

11. With reference to the above documents, the learned

Senior Counsel for the petitioner asserted that the

reference/proceedings reached the hands of the Hon'ble Supreme

Court only on 19.11.2012 and as such, inquiry had not been

commenced by the Hon'ble Supreme Court, as on the date of

Ext.P3 order of suspension, i.e., on 09.11.2012, to have it

sustained. On this score alone, the suspension is liable to be

intercepted, submits the learned counsel.

12. The proposition is sought to be controverted from the part of the respondent, stating that, Section 17(2) does not contemplate or even suggest the need to have the inquiry started by the Hon'ble Supreme Court as a pre requirement so as to place the Officer under suspension. Whether the Officer should be suspended from service or should he be kept away from the office during the pendency of the inquiry/proceedings, is a matter to be considered by the Governor, who is the Appointing

Authority. Once a decision is taken by the Governor, to have an inquiry conducted by the Apex Court under Section 17(1) of the Act, it is open for the Governor to invoke the power under Section 17(2) and hence the suspension is within the four walls of law. It is also stated that, no violation of any principle of natural justice is involved. Reliance is sought to be placed on some decisions rendered by the Apex Court with reference to the circumstances contemplated under Article 317(1) of the Constitution of India

and such other circumstances (which would be referred to, in the due course).

13. For convenience of reference, Section 17 of the 'RTI Act'

is extracted below:

"S.17. Removal of State Chief

Information Commissioner and State

Information Commissioners.- (1)

Subject to the provisions of sub-section

(3), the State Chief Information

Commissioner or a State Information

Commissioner shall be removed from his

office only by order of the Governor on

the ground of proved misbehaviour or
incapacity after the Supreme Court, on a
reference made to it by the Governor, has
on inquiry, reported that the State Chief
Information Commissioner or a State
Information Commissioner, as the case
may be, ought on such ground be
removed.

(2) The Governor may suspend
from office, and if deem necessary
prohibit also from attending the office
during inquiry, the State Chief Information
Commissioner or a State Information

Commissioner in respect of whom a

reference has been made to the Supreme

Court under sub-section (1) until the

Governor has passed orders on receipt of

the report of the Supreme Court on such
reference.

(3) Notwithstanding anything
contained in sub-section (1), the Governor
may by order remove from office the
State Chief Information Commissioner or
a State Information Commissioner if a
State Chief Information Commissioner or
a State Information Commissioner, as the
case may be,---

(a) is adjudged an insolvent; or

(b) has been convicted of an

offence which, in the opinion of the

Governor, involves moral turpitude; or

(c) engages during his term of

office in any paid employment outside the

duties or his office; or

(d) is, in the opinion of the

Governor, unfit to continue in office by

reason of infirmity of mind or body; or

(e) has acquired such financial or

other interest as is likely to affect

prejudicially his functions as the State

Chief Information Commissioner or a

State Information Commissioner.

(4) If the State Chief Information

Commissioner or any State Information

Commissioner is in any way, concerned or

interested in any contract or agreement

made by or on behalf of the Government

of the State or participates in any way in

the profit thereof or in any benefit or
emoluments arising therefrom otherwise
than as a member and in common with
the other members of an incorporated
company, he shall, for the purposes of
sub-section (1), be deemed to be guilty of
misbehaviour."

Sub Section (1) of Section 17 deals with the power of the
Governor to remove the State Chief Information Commissioner or
any State Information Commissioner from his office on the
ground of "proved misbehaviour or incapacity". This is
possible, only if such a report is given by the Apex Court after

conducting an inquiry, on the reference made to it by the

Governor, to the effect that such Officer ought to be removed on

such ground.

Sub Section (2) of Section 17 deals with the power of the

Governor to suspend the Officer, and if deem necessary, prohibit

him also from attending the office during inquiry, on reference

made to the Supreme Court under Sub Section (1), until the

Governor has passed orders on receipt of the report of the

Supreme Court.

Sub Section (3) starts with the non obstante clause pointing

out that, even without any reference to the Supreme Court and

report under Section 17(1), the Governor can remove the State

Chief Information Commissioner or the State Information

Commissioner, if such officer has invited the adverse

circumstances, mentioned under Clauses 'a to e' of the said sub

section.

The last Sub section i.e, Sub Section (4) of Section 17 refers to the particular circumstance, whereby the Officer concerned can be deemed to be guilty of misbehaviour, for the purpose of Sub section (1) of Section 17.

14. On analysing the case projected by the petitioner, in the above background, it is seen that discretion is vested upon

the Governor, whether to suspend the Officer or not; and if deem
necessary, also prohibit him from attending the office during the
inquiry, until the Governor has passed orders on receipt of the
report of the Hon'ble Supreme Court. This discretion is not
qualified by commencement of the inquiry by the Hon'ble
Supreme Court, primarily for the reason that there is nothing
suggestive in this regard in the said provision and secondly, that
the Governor may not be aware of the proceedings before the

Hon'ble Supreme Court and cannot be a party to the inquiry.

15. Of course, there is some obscurity in the terminology/wording of Sub section (2) of Section 17, when it says that the Governor may suspend from office and if deem necessary prohibit also from attending the office during inquiry. Once an order of suspension is passed, it goes without saying that the Officer cannot attend the office during inquiry. If it be so, the conjunction 'and' used in the said sub section, may actually have to be read as 'or', on which event, there may not be any ambiguity. This, in turn, would mean that, suspension may not be necessary in all cases and even if the Officer is not suspended pending inquiry by the Apex Court, if the Governor

deems it necessary, His Excellency can prohibit the Officer from attending the office during inquiry.

16. The contention of the petitioner does not appear to be correct or sustainable for another reason as well.

'Commencement of the inquiry by the Apex Court need not be with intimation to the Governor. The provision does not say, that suspension shall be restricted to the period from the date of commencement of the inquiry, till date of completion of the

same. On the other hand, it is clearly discernible from the provision, that the suspension will continue until the Governor has passed orders, on receipt of the report of the Supreme Court on such reference. It virtually means that, even after receipt of the report of inquiry from the Supreme Court, it is still open for the Governor to take sufficient time to pass orders and suspension will continue till such time. In other words, suspension is not intended to be till the completion of inquiry by the Supreme Court. As a corollary, it also means that, 'commencement' of the inquiry by the Supreme Court does not have any relevance or significance to the suspension which has to be with reference to the decision taken by the Governor to make

a reference to the Supreme Court for conducting an inquiry under

Section 17(1). This is more so, when the power to take a

decision, whether to make a reference or not for conducting

inquiry by the Apex Court, is exclusively vested on the Governor.

17. There is yet another contention for the petitioner that,

he has not pursued any act, so as to constitute a 'misbehaviour'.

It is stated that, Sub section (1) of Section 17 has to be read

together with Sub section (4), so as to have an idea as to the

scope of inquiry and the ground of misconduct. The attempt of the petitioner is to make out that, a person can be deemed to be guilty of misbehaviour, only on satisfaction of the requirements under Sub section (4) of Section 17 of the Act. This Court finds it difficult to accept the said proposition. Section 17(1) refers to the inquiry on the ground of 'proved misbehaviour or incapacity'; while the word 'incapacity' does not appear in Sub section (4). This virtually means, Section 17(1) implies such other circumstances over and above the circumstance mentioned under Sub section (4) as well. That apart, Sub section (4) of Section 17 refers to a particular situation, where the State Chief Information Commissioner or State Information Commissioner, in any way,

becomes concerned or interested in any 'contract or agreement' made by, or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom, otherwise than as a member and in common with the other members of an incorporated Company; shall be deemed to be guilty of misbehaviour, for the purposes of sub-section (1). To put it more clearly, the circumstance mentioned in Sub section (1) is

not solely restricted to instances of 'misbehaviour' alone, so as to invoke the power and procedure under Section 17(1) of the Act.

The contention raised by the petitioner, to the contrary, is without any pith or substance.

18. There is a contention for the petitioner that, the purpose of suspension under Section 17(2) of the Act during the inquiry by the Supreme Court, is with the object that the concerned Information Commissioner does not interfere with the inquiry to be conducted under the orders of the Supreme Court.

The said contention does not appear to be attractive to this Court, obviously for the reason that, the Information Commissioner cannot have any access to the proceedings before

the Supreme Court, except with the express/
permission/opportunity, if any, given by the Apex Court. For that
matter, the Governor need not suspend the Officer. On the other
hand, the purpose of suspension is primarily to preserve
transparency and to see that the system of administration of
justice in the office of the Information Commissioner is not
tainted in any manner.

19. With regard to the contention of the petitioner that, the

Additional Director General of Police (Vigilance and Investigation)

could not have conducted any enquiry or submitted any report,

and that the Government could not have made any

'recommendation' in this regard so as to cause the petitioner to

be suspended, the fact remains that Mr. V.S. Achuthanandan,

happens to be an accused in the Vigilance case No. VC 1/12/KSD,

which is being investigated by the concerned Deputy

Superintendent of Police. The incriminating circumstances

including the conversations over phone are stated as put on

record. In view of the alleged intervention of the petitioner with

the investigation and the instruction stated as given by the

petitioner to absolve Mr. V.S. Achuthanandan, a complaint was

preferred by the said Investigating Officer before the higher

authorities, which was subjected to verification. It was

accordingly, that a 'Quick verification Report' was submitted by

the Additional DGP, virtually in support of the complaint preferred

by the Investigating Officer. All these aspects were considered by

the Government, who in turn thought it fit and proper to place it

for consideration before the Governor, for further action under

Section 17(1) of the Act.

20. The terms 'recommendation by the Government', used does not appear to be of much significance, so as to mean that the Governor has simply accepted the version of the Government and has mechanically placed the petitioner under suspension. On the other hand, the materials on record, particularly Ext.P3 order of suspension and Ext.P6 addressed to the Supreme Court, clearly reveal that there is proper application of mind. The role of the Government was only to place the relevant materials before the Governor, who in turn has considered the same and a 'conscious decision' has been taken on the basis of such materials, to have the matter inquired into by the Supreme Court; for which necessary reference was made under Section 17

(1) of the Act. It was pursuant to the said decision, that power was invoked under Sub section (2) of Section 17 and the petitioner was suspended accordingly, vide Ext.P3. As it stands so, this Court finds that Ext.P3 order is not assailable under any circumstance and the suspension can continue till final orders are passed by the Governor, after receipt of the report from the Supreme Court, on completion of the inquiry.

21. Regarding the contention of the petitioner that, Ext.P2

representation has not been considered before passing Ext.P3

order of suspension, it is to be noted that, the said petition itself

is dated 08.11.2012; i.e., the previous day of passing Ext.P3

order of suspension. The petitioner has conceded that he had

gone to the 'Raj Bhavan' on 08.11.2012. But the Governor was

not available there, having gone to Bangalore. In the said

circumstance, the petitioner readily made over a copy of the said

representation to the office and also sent the same by 'fax' and

'e-mail' to the Governor at Bangalore, on the same day. Even

though no proof has been produced by the petitioner in this

regard, the fact remains that Ext.P3 order was passed on the

very next day i.e., on 09.11.2012 and there was no reasonable

chance for the Governor to have come across Ext.P2 before

Ext.P3 order was passed. Even otherwise, there is no provision in

the statute (Section 17(2) of the RTI Act), to make it obligatory

for the Governor to have issued any 'prior notice' before passing

an order of suspension. As such, it cannot be said that, Ext.P3

order has caused infringement of any statutory requirements.

There is no violation of any known principles of natural justice as

well.

22. In connection with the course and procedure on reference under Article 317(1) of the Constitution of India, it has been held by the Apex Court in the decision reported in (1983) 4 SCC 258 that, the President's prima facie satisfaction, based on the available materials is enough for making a reference under Article 317 (1) of the Constitution. It has also been held that, when the language is plain and clear, something else read into it as an additional provision, especially in the nature of a condition precedent, is not justified. It has been further held that the power of the President to make a reference to the Supreme Court under Article 317(1) of the Constitution is not subject to the condition precedent, that he must first have the facts examined

by some other body or authority. The power, course and

procedure under Section 17(1) of the RTI Act, to be

invoked/pursued by the Governor, are almost similar to that of

the President under Article 317 (1) of the Constitution of India.

Satisfaction of the Governor is supreme. Such satisfaction was

recorded, as to the necessity to make a reference in respect of

the alleged deeds and misdeeds of the petitioner, brought to light

from the materials on record. The above dictum has been relied

on and the procedure for inquiry under Article 317(1) of the

Constitution has been reiterated by the Apex Court in the

subsequent decision reported in (2007) 11 SCC 547 [Sayalee

Sanjeev Joshi (Smt.) Member, Maharashtra Public Service

Commission In Re] as well.

23. The question whether any show cause notice has to be issued by the Governor before suspending the members and Chairman of the PSC and making a reference to the Apex Court under Article 317(1), had come up for consideration before the Apex Court in Ram Kumar Kashyap and Another v. Union of India and Another, [(2009) 9 SCC 378]. It was held there, in crystal-clear terms, that it was not necessary that the principle

of 'audi alteram partem', rigorously followed in the domain of service law, need to be applied with the same degree of rigour, in proceedings involving removal and suspension of members of the State Public Service Commission. The observation made by the Apex Court in Paragraph '12' is relevant, and is extracted below:

"12. It is clear from the perusal of the above cases that the petitioners were not entitled to an opportunity to show cause or to be heard before the point of time that the orders of suspension

were passed by the Hon'ble Governor of Haryana

under Article 317(2) after the President had

referred the matter to the Supreme Court. The

rationale behind empowering the Governor of a

State to issue such an order of suspension even

before the reference is actually decided by the

Supreme Court is to maintain the public trust and

confidence in the impartial and honest working of

the said Public Service Commission."

24. In the above facts and circumstances, this Court holds

and declares that, the contention of the petitioner, that

suspension of the State Chief Information Commissioner/State

Information Commissioner contemplated under Sub section (2) of

Section 17 of the RTI Act can only be 'after commencement of

the inquiry by the Supreme Court', is not correct or sustainable.

This Court finds that the writ petition is devoid of any merit and

none of the grounds raised in support of the same could be held

as tenable. Interference is declined and the writ petition is

dismissed.

P.R. RAMACHANDRA MENON,

JUDGE.